

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

DIVISION OF PORTLAND

COLLEGENET, INC.,

Plaintiff,

v.

GOOGLE INC.

Defendant.

Case No. 3:10-CV-1211

ORDER STAYING ACTION

CollegeNET filed this action seeking, among other things, a declaratory judgment and an injunction against Google to prevent trademark infringement of CollegeNET's registered trademark SPEEDBOOK.

Google has committed that it has not used the SPEEDBOOK mark in commerce and that it has no intention to use the SPEEDBOOK mark for a Chrome operating system tablet. Google has further committed that it will not sell, offer for sale, advertise, promote or announce (explicitly or through indirect means such as "leaks" to media outlets) any product of any nature in connection with the SPEEDBOOK trademark, nor will Google license or authorize other parties to do so on or before December 31, 2010.

The parties have proposed that the Court stay this action for a period of time to permit Google to make a final determination regarding whether it intends to use the

SPEEDBOOK mark. The parties have each submitted proposals for the stay, which the Court has taken into consideration in preparing this stay order.

The Court hereby stays further proceedings in this matter under the following terms and conditions:

(A) From now until August 1, 2011, in the event that Google decides to release a product and/or service using the SPEEDBOOK mark, it will notify CollegeNET, through its counsel of record, of the launch or public announcement of such product and/or service no later than 60 days before the earlier of such launch or public announcement and will instruct its employees not to leak information about such a launch or announcement prior to the time thereof.

(B) Google will also immediately notify CollegeNET if, at any time before August 1, 2011, Google takes action evidencing use of the mark SPEEDBOOK, including: (a) Google places or authorizes others to place order(s) for “Speedbook” product labels, “Speedbook” product packaging, or product molds incorporating “Speedbook;” (b) Google enters into contracts with third parties, including vendors, suppliers, marketing agencies, and other similar entities, to use the SPEEDBOOK mark.

(C) If CollegeNET is notified in accordance with (A) or (B), the parties will promptly notify the Court.

(D) If, prior to August 1, 2011, Google determines that it does not intend to introduce a SPEEDBOOK-branded product or service, Google will promptly thereafter abandon its U.S. trademark application for the SPEEDBOOK mark and provide notice to CollegeNET that Google does not intend to and will not introduce a SPEEDBOOK-branded product or service. The parties will promptly notify the Court.

(E) In the event Google has not notified CollegeNET in accordance with (A), (B), or (D) by August 1, 2011, Google will notify CollegeNET, through its counsel of record, by August 1, 2011 of whether Google intends to launch a product and/or service using the SPEEDBOOK mark in the future: (1) If Google does not intend to launch such a product or service, it will abandon its U.S. trademark application for the SPEEDBOOK mark and will forgo any contemplated use of SPEEDBOOK, and the parties will promptly notify the Court; or (2) If Google does not notify CollegeNET that it does not intend to launch such a product or service, the parties will promptly notify the Court and the stay will be lifted effective August 1, 2011.

(F) In the event that the stay is lifted, expedited discovery will proceed on issues relevant to a motion for preliminary injunction. Google will not oppose any motion or action against it for trademark infringement or for declaratory judgment of trademark infringement concerning the SPEEDBOOK mark on the grounds that there is no case or controversy or that the action is not ripe. Google will not file a declaratory judgment action against CollegeNET relating to the SPEEDBOOK mark except as a counterclaim.

IT IS SO ORDERED.

DATED this 10th of November, 2010.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Judge